

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW HAMPSHIRE

_____)	
UNITED STATES OF AMERICA)	
)	
V.)	CR. NO. 13-cr-00142-PB
)	
JOHNATHON IRISH)	
)	
_____)	

DEFENDANT’S MOTION FOR RELEASE ON PRETRIAL SUPERVISION

The defendant requests that this Court issue an order releasing him pending the resolution of this case, setting such conditions of release as deemed appropriate. Grounds follow:

The defendant has been charged with two counts of making a false statement to a federal agent in violation of 18 U.S.C. § 1001; one count of aiding and abetting the making of a false statement in connection with the acquisition of a firearm in violation of 18 U.S.C. §§ 2 and 922; one count of engaging in the business of dealing in firearms without a license in violation of 18 U.S.C. § 922(a)(1)(A); and one count of possession of a firearm by a regular user of a controlled substance in violation of 18 U.S.C. § 922(g)(3). The current trial date is May 6, 2014.

The defendant made an initial appearance on November 26, 2014. He stipulated to detention at that time because he was being held on a pending New Hampshire State charge of criminal threatening in Rockingham County Superior Court. That case has subsequently been dismissed. Therefore at this time this Court’s detention Order is the

sole reason for the defendant's incarceration.

The defendant is charged with crimes listed at 18 U.S.C. § 3142(f)(1), therefore there is a rebuttable presumption that there are no conditions or combination of conditions which would reasonably assure the appearance of the person as required and the safety of the community. Once that presumption is rebutted the Court must find by clear and convincing evidence that no conditions or combination of conditions will reasonably assure the safety of any person and the community before the defendant is ordered detained. The defendant submits that there is no issue in this case concerning his appearance at required Court hearings.

The defendant has a number of criminal convictions, however, they are all for misdemeanor level offenses. Based upon review of the criminal synopsis prepared by US Probation it appears that he has spent very little time in jail until he was unable to make bail in the above referenced Rockingham County Criminal Threatening charge which has been dismissed. Furthermore, it appears that he has never failed to appear as required in any of his past misdemeanor cases, nor has he ever violated any conditions of pretrial release. He therefore appears to be a good candidate for pretrial release in this case.

The defendant receives Social Security disability benefits, however, those payments have stopped during his incarceration. He will therefore need a residence initially upon release until the payments resume, and he is able to afford an apartment. Tony Costello, a friend of the defendant, has indicated that the defendant can reside with

him upon his release. Mr. Costello resides at 202 Elmwood Dr., Hudson, NH with his wife and two children. Also residing at the residence are his wife's brother and her fiancé and child. Mr. Costello has indicated that the residence is large and that there is a spare room for the defendant. Mr. Costello owns firearms but has indicated that he will arrange to have them removed from the residence during the defendant's stay. It is counsel's understanding that Mr. Costello does not have a criminal record.

The defendant has strong ties to the community. He is essentially a life long resident. His common law wife and child live in New Hampshire. Once he regains his Social Security he plans to rent an apartment and live with them. His mother, with whom he is very close, also lives in New Hampshire. His younger sister is a student in New Hampshire as well. His extended family, including his paternal grandparents, his maternal grandmother, two aunts, and three uncles all live in New Hampshire.

The defendant also asks the Court to consider that none of the charged crimes involve violence. Thus, even though this is a "presumption" case, it does not pose the same safety concerns as a case involving allegations of violence.

AUSA Nick Abramson objects to this motion.

No memorandum of law is necessary to the resolution of the issues raised herein.

A hearing on the record is requested.

WHEREFORE the defendant requests that this Court schedule a hearing on this motion and subsequently issue an Order releasing the defendant on pre-trial supervision..

Respectfully submitted,
Johnathon Irish
By His Attorney,

Date: March 24, 2014

/s/ Jonathan R. Saxe
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CERTIFICATE OF SERVICE

I hereby certify that the above document was served on the following persons on March 24, 2014, and in the manner specified herein: electronically served through ECF to AUSA Nick Abramson and US Attorney John Kacavas.

/s/ Jonathan R. Saxe
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